balance due (a conditional sale of personalty being deemed an equitable lien in New York). Defendant set up, as a defense, a breach of warranty for this amount. *Held,* that this defense could not be maintained as title was not in defendant. *Hauss* v. *Savarese,* 149 N. Y. Supp. 938.

This seems to be the first case in which this exact point has been raised. It has been held that a conditional vendee cannot *bring* an action for breach of warranty until title vests in him. BENJ., SALES (Bennett's Ed.) 855; *English* v. *Hanford,* 27 N. Y. Supp. 672; *Frye* v. *Millegan,* 10 Ont. 509; *Bunday* v. *Columbus Machine Co.,* 143 Mich. 10; but it has never before been decided that he cannot set off a breach of warranty in an action for the purchase price. There is, however, some dicta upon this point. *Frye* v. *Millegan,* supra; *New Hamberg Mfg. Co.* v. *Webb,* 23 Ont. L. Rep. 44; WILLISTON, SALES, § 607.

SALES—WAIVER OF ANTICIPATORY BREACH.—Plaintiff sold a certain quantity of rubber to defendant, deliverable in installments. Before all the installments became due, defendant attempted to import into the contract certain new terms, and on their rejection by the plaintiff, refused further to perform. Plaintiff nevertheless made subsequent tenders of performance. After time for final performance plaintiff sued upon the anticipatory breach. Defendant claimed that such anticipatory breach was waived by the subsequent tenders. *Held,* that these tenders were not such a waiver. *Rubber Trading Co.* v. *Manhattan Rubber Mfg. Co.,* (1914), 150 N. Y. Supp. 17.

The tenders made by the plaintiff after breach by the defendant, were probably not sufficient to support an action for final breach. The court held merely that *such* tenders were not a waiver of the anticipatory breach. This is in accord with *Poel* v. *Brunswick etc. Co.,* 144 N. Y. Supp. 725; and *Canda* v. *Wick,* 100 N. Y. 127, holding that tender of performance after anticipatory breach does not destroy the effect of such breach, but is in conflict with. *Becker* v. *Seggie,* 124 N. Y. Supp. 116.

SURETYSHIP—ABSENCE OF PRINCIPAL'S SIGNATURE.—In an action of debt against the sureties on a town treasurer's bond, the defense was made that no liability arose on the bond because it did not bear the signature of the principal. *Held,* that since the principal was under a legal obligation to perform his official duties, absence of his signature on the bond was no defense. *Inhabitants of Boothbay Harbor* v. *Marson,* (Me. 1914), 92 Atl. 623.

This decision follows the reasoning applied in *Deering* v. *Moore,* (1894), 86 Me. 181, and is in accord with the conclusion adopted by numerous jurisdictions to the effect that although a surety is prima facie not bound unless the principal's signature appear on the contract, still it is not necessary that the bond be executed by the principal where the latter is bound to perform through an independent obligation. *Bean* v. *Parker,* 17 Mass. 591; *Ohio* v. *Bowman,* 10 Ohio 445; *Cockrill* v. *Davie,* 14 Mont. 131; *Trustees of Schools* v. *Sheik,* 119 Ill. 579; *U. S. Fid. Co.* v. *Haggart,* 163 Fed. 801; *Bunn* v. *Jetmore,* 70 Mo. 228; *Gen. Ry Signal Co.* v. *Tit. Guar. Co.,* 203 N. Y. 407; *American Surety Co.* v. *Pangburn,* (Ind.), 105 N. E. 769, 13 MICH. L. REV.